MT LEGISLATIVE HISTORY

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Chapter 145 1985

Bill H _____ S 35 Original bill & hist. ✓ C

H. Committee on Jud

Hearing Date(s) 3/8 ___C

_____ ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Jud.

Hearing Date(s) 1/16 ___C

1/22 ___C

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Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

(To keep current -- post bills when entering, being heard or leaving committee.) Form CS-32

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STATUS SHEET

FORTY-NINTH LEGISLATIVE SESSION

COMMITTEE ON JUDICIARY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 5	1/18/85	3/7/85	2/7/85				2/7/85		
SB 26	1/19/85	3/11/85 3/12/85	(Tabled 3/12/85)		Reconsidered 3/28/85		and passed out with BE AS		CONCURRED IN AMENDED
SB 57	1/22/85	3/7/85	3/7/85				3/7/85		
SB 27	1/23/85	3/8/85	3/8/85				3/8/85		
SB 80	1/24/85	3/11/85	3/11/85				3/11/85		
SB 2	1/26/85	3/6/85 3/7/85	(TABLED 3/7/85)						
SB 3	1/28/85	3/6/85 3/7/85	3/7/85				3/7/85		
SB 85	1/28/85	3/8/85	3/11/85				3/8/85		
SB 90	1/28/85	3/8/85 3/11/85	3/11/85					3/11/85	
SB 91	1/28/85	3/7/85 3/8/85	3/8/85					3/8/85	
SB 60	1/29/85	3/7/85 3/8/85	3/8/85				3/8/85		
SB 87	1/29/85	3/7/85	3/7/85				3/7/85		
SB 28	2/27/85	3/12/85 3/22/85	3/22/85					3/22/85	
SB 54	2/27/85	3/12/85	3/12/85					3/12/85	
SB 89	2/27/85	3/12/85 3/19/85	3/19/85					3/19/85	
SB 104	2/27/85	3/11/85	3/11/85				3/11/85		

Use a separate sheet for Senate, House Bills, and Resolutions

SENATE BILL NO. 85

INTRODUCED BY B. BROWN, VAN VALKENBURG, CRIPPEN, SPAETH, ADDY, MERCER

BY REQUEST OF THE BOARD OF CRIME CONTROL

IN THE SENATE

January 10, 1985	Introduced and referred to Committee on Judiciary.
January 14, 1985	Fiscal Note requested.
January 19, 1985	Fiscal Note returned.
January 22, 1985	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
January 23, 1985	Bill printed and placed on members' desks.
January 24, 1985	Second reading, do pass.
January 25, 1985	Considered correctly engrossed.
January 26, 1985	Third reading, passed. Ayes, 42; Noes, 4.
	Transmitted to House.

IN THE HOUSE

January 28, 1985	Introduced and referred to Committee on Judiciary.
March 11, 1985	Committee recommend bill be concurred in. Report adopted.

March 13, 1985	Motion pass consideration.
March 14, 1985	Second reading, concurred in.
March 16, 1985	Third reading, concurred in.
	Returned to Senate.

IN THE SENATE

March 16, 1985	Received from House.
March 18, 1985	Sent to enrolling.
	Reported correctly enrolled.

Senate BILL NO. 85

INTRODUCED BY Bob Brown - Val Vaughn Gage Spaeth Tom Hager

BY REQUEST OF THE BOARD OF CRIME CONTROL MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF JUSTICE TO ESTABLISH A CRIMINAL INTELLIGENCE INFORMATION SECTION WITHIN ITS CRIMINAL INVESTIGATION BUREAU; AMENDING SECTIONS 44-5-102, 44-5-303, AND 44-5-402, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Creation of criminal intelligence information section -- advisory council. (1) The department of justice may create within the criminal investigation bureau a criminal intelligence information section directly responsible to the attorney general.

(2) (a) If a section is created under subsection (1), the attorney general shall establish a criminal intelligence information advisory council in accordance with 2-15-122, consisting of one representative from the Montana chiefs of police association, one representative from the Montana sheriffs and peace officers association, one representative from the Montana county attorneys association, one member of the department of justice, a member of the judiciary committee of either the house of representatives or the senate, and a citizen at large.

(b) The representatives from the Montana chiefs of police association and the Montana sheriffs and peace officers association must be sworn officers of a participating agency.

(c) The department of justice member may not be an employee of the criminal investigation bureau or any of its sections.

(d) Members of the advisory council serve at the pleasure of the attorney general.

(e) The criminal investigation bureau shall provide staff and support services for the advisory council.

NEW SECTION. Section 2. Definitions. In [sections 2 through 8] the following definitions apply:

(1) "Advisory council" means the criminal intelligence information advisory council provided for in [section 1].

(2) "Section" means the criminal intelligence information section provided for in [section 1].

NEW SECTION. Section 3. Duties of section. The section may not initiate investigations to gather criminal intelligence information, but subject to standards and procedures provided by [sections 2 through 8] and to other limitations imposed by law, the section shall:

(1) establish and maintain liaison with participating law enforcement agencies to foster a meaningful exchange of

INTRODUCED BILL
SB 85

LC 0250/01

criminal intelligence information;

(2) develop and maintain a system for collecting, reviewing, storing, referencing, indexing, and disseminating criminal intelligence information;

(3) receive and collect information from participating law enforcement agencies;

(4) develop an analytical capability to provide useful strategic and tactical intelligence reports;

(5) maintain the integrity and security of all information collected by the section; and

(6) develop methods of evaluating the effectiveness of the section in accomplishing its goals and in safeguarding the privacy of all individuals about whom the section has information.

NEW SECTION. Section 4. Section supervisor and personnel. (1) The chief of the criminal investigation bureau of the department of justice shall designate a section supervisor.

(2) The criminal investigation bureau may employ necessary personnel for the efficient and secure operation of the section, subject to approval of the personnel by the attorney general.

NEW SECTION. Section 5. Functions of advisory council. The advisory council shall:

(1) recommend general policies for the operation of

the section;

(2) recommend the approval or denial of an application from an eligible agency for participation in the section;

(3) recommend the suspension of a participant agency for due cause; and

(4) recommend, if appropriate, the reinstatement of a suspended participant agency.

NEW SECTION. Section 6. Participating agencies. (1) Agencies eligible for participation in the section are:

(a) municipal police departments;

(b) sheriff's departments; and

(c) sections of the criminal investigation bureau of the department of justice.

(2) A participant in the section must be an eligible agency that has been authorized by the attorney general to receive criminal intelligence information from the section under [sections 2 through 8].

NEW SECTION. Section 7. Protection of individual privacy. The advisory council shall review and evaluate the implementation of the section's safeguards of individual privacy rights adopted pursuant to [section 8] and periodically inspect all records relating to dissemination of information to determine whether they are in compliance with [sections 2 through 8] and with the standards and procedures adopted by the section. The advisory council

shall make an annual report to the attorney general.

NEW SECTION. Section 8. Section standards and procedures. The attorney general, in conjunction with the criminal investigation bureau and after considering recommendations of the advisory council, shall adopt standards and procedures for the operation of the section. The standards and procedures must ensure compliance with [sections 2 through 8] by the section and must include safeguards of individual privacy rights.

Section 9. Section 44-5-102, MCA, is amended to read:

"44-5-102. Purpose. The purpose of this chapter is to require the photographing and fingerprinting of persons under certain circumstances, to ensure the accuracy and completeness of criminal history information, and to establish effective protection of individual privacy in confidential and nonconfidential criminal justice information ~~recordkeeping~~ collection, storage, and dissemination."

Section 10. Section 44-5-303, MCA, is amended to read:

"44-5-303. Dissemination of confidential criminal justice information. (1) Dissemination of confidential criminal justice information is restricted to criminal justice agencies or to those authorized by law to receive it. A criminal justice agency that accepts confidential criminal justice information assumes equal responsibility

for the security of such information with the originating agency. Whenever confidential criminal justice information is disseminated, it must be designated as confidential.

(2) If a criminal intelligence information section is created under [section 1], dissemination of criminal intelligence information is governed by [sections 2 through 8]."

Section 11. Section 44-5-402, MCA, is amended to read:

"44-5-402. Automated equipment. (1) In an automated criminal justice information system, information shall be collected, processed, and preserved on a computer dedicated solely to criminal justice information, except that, if this is impractical, a central computer may be used if adequate safeguards are built into the criminal justice information system to prevent unauthorized inquiry, modification, or destruction of criminal justice information in conformity with the current federal regulations in 28 C.F.R. section 20.21(f) or any amendment thereto.

(2) If a criminal intelligence information section is created under [section 1], criminal intelligence information equipment and its use is governed by [sections 2 through 8]."

NEW SECTION. Section 12. Codification instruction. Sections 2 through 8 are intended to be codified as an integral part of Title 44, chapter 5, and the provisions of

Title 44, chapter 5, apply to sections 2 through 8.

NEW SECTION. Section 13. Effective date. This act is effective July 1, 1985.

-End-

STATE OF MONTANA

F I S C A L N O T E

REQUEST NO. FNN086-85

Form BD-15

In compliance with a written request received 01-14 19 85, there is hereby submitted a Fiscal Note for S.B. 85 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing the Department of Justice to establish a criminal intelligence information section within its Criminal Investigation Bureau.

ASSUMPTIONS:

1. The Department of Justice has the authority, through the appropriation process, to create a criminal intelligence information section.
2. Should a criminal intelligence section be created there will be an advisory council.
3. The five members of the council will meet one day each quarter. Four members will require travel expenses, and travel an average of 150 miles to and from Helena. One member will require a stipend.

FISCAL IMPACT:

	FY1986	FY1987
Advisory Council	$1,932	$1,932

TECHNICAL NOTE:

The Department of Justice has requested funds, through the budget/appropriation process, to support 12 FTE's that would augment the general investigation section. This request includes the establishment of an itelligence information function. The request, if passed by the 49th Legislature, incorporates the intent of Senate Bill 85, and there would be no further fiscal impact except to pay the advisory council costs.

Daniel L. Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: Jan 19, 1985

SB 85

FN1:P/1

CONSIDERATION OF SENATE BILL NO. 85: Senator Bob Brown, District #2, chief sponsor of SB 85, testified. He informed the committee that this bill had its origin back in 1981 when the Attorney General's office sponsored a conference on criminal justice issues. This is an act allowing the Department of Justice to establish a criminal intelligence information section within its criminal investigation bureau. He said that a lot of preparation and thought has gone into this piece of legislation. It also establishes an advisory council and establishes the duties of that council. The bill is based on the Rocky Mountain Information Network which is a criminal information sharing network of Rocky Mountain State's Headquarters in New Mexico. It is also patterned somewhat after the NCIC (National Crime Information Center) which deals with stolen property. SB 85 fills a need because it creates a workable mechanism for a criminal information bank in the Attorney General's Office in a centralized location, but it also provides the statutory safeguards that keep the information that is obtained in the bank from being misused.

Mike Lavin, administrator of the Board of Crime Control, spoke in favor of the bill. He submitted a copy of his testimony which was marked Exhibit A and attached hereto.

Dorothy McCarter, Assistant Attorney General, stated that she staffed the task force committee during the drafting of this legislation. She said the new section will exist only to serve as a service to local law enforcement agencies. The information will not be used by the state criminal justice agency -- it is only used by the local law enforcement. At the same time, this new section will protect the integrity and reliability of the information in periodic review.

There being no further proponents or opponents, Senator Brown closed.

The floor was opened up for questions.

In response to a question by Rep. Addy, Gary Carrell, chief of the Criminal Investigation Bureau, stated that at the present time, the bureau does not have the personnel to set up the information section. All this does is give us the authority to do it. (Referring to section 4 of the bill). He said that the other related bill in which the FTE's referred to in the fiscal note are provided for was Senate Bill 338. There was a question with this bill whether or not it is an appropriation bill.

Following a few more general questions, hearing closed on SB 85.

CONSIDERATION OF SENATE BILL NO. 90: Senator Joe Mazurek, District #23, principle sponsor of SB 90, testified in support of it. He stated that SB 90 was introduced at the request of the Montana County Attorney's Association. He

mination, there are not very many. In most states that have a reciprocal discovery procedure, it was created by the courts.

Rep. Rapp-Svrcek wanted to know how many of these things which are presently exempted in section 4 from disclosure are presently available. Mr. McGrath said that none of them are available to defense attorneys.

Rep. Addy is wondering if the concept of fairness might moderate the pursuit of truth. He feels that there needs to be a line drawn between truth and fairness. Would this bill permit discovery of the defendant's rebuttal witnesses? Mr. Connor said that it is not addressed in the bill.

Following further general questions, hearing closed on SB 90.

EXECUTIVE SESSION

An executive session was called at 11:25 a.m. to act on the bills in committee.

ACTION ON SENATE BILL NO. 27: Rep. Darko moved that SB 27 BE CONCURRED IN. The motion was seconded by Rep. Addy. The question was called, and the motion carried with Reps. Hannah and Brown dissenting. (Rep. Keyser and Rep. Grady were not present to vote.) Rep. Darko agreed to carrying the bill on the floor.

ACTION ON SENATE BILL NO. 85: Rep. Mercer moved that SB 85 BE CONCURRED IN. The motion was seconded by Rep. O'Hara. The question was called, and the motion carried with Reps. Brown, Montayne and Eudaily dissenting.

ACTION ON SENATE BILL NO. 91: Rep. Mercer moved that SB 91 BE CONCURRED IN. The motion was seconded by Rep. Bergene.

Rep. Krueger submitted amendments to SB 91 which he moved to adopt. He informed the committee that this particular language is adopted after the California law. The amendment is as follows:

1. Page 3, line 15.
   Following: "(1)"
   Insert: "except as provided in subsection (3),"

2. Page 4, line 1.
   Following: "complaint"
   Insert: "; (3) the proper place of trial of an action brought pursuant to Title 40, chapter 4 is the county in which the petitioner has resided during the 90 days preceding the commencement of the action"

The motion was seconded by Rep. Mercer, the question called,

STANDING COMMITTEE REPORT

March 8 19 85

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 35

Third reading copy (Blue color)

CRIMINAL INTELLIGENCE INFORMATION UNIT

Respectfully report as follows: That Senate Bill No. 35

DO CONCURRED I.V

DO PASS

REP. TOM MADDAX, Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

MONTANA LEGISLATIVE ...CIL BILL STATUS SYSTEM
FINAL COMMITTEE ...ORT OF REFERRED BILLS
COMMITTEE--(S) JUDICIARY

CHAIRMAN--MAZUREK, JOE
SECRETARY-STALEY, CINDY
NORMAL SCHEDULE==> SITE: OLD SUPREME COURT ROOM DAYS: M-TU-W-TH-F TIME: 10:00 A.M.-12 NOON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
SB0060	1/07	1/23		PASS AS AMENDED		1/23
MAZUREK, JOSEPH P.			REPLACE UNIFORM GIFTS TO MINORS ACT WITH UNIFORM TRANSFERS TO MINORS ACT			
SB0063	1/07	1/21	1/22 2/23	TABLED		2/6
HALLIGAN, MIKE			VALIDATE CONTRACT CLAUSES REQUIRING ARBITRATION			
SB0066	1/12	1/21	1/23	PASS AS AMENDED		1/25
HALLIGAN, MIKE			REQUIRING PLAIN LANGUAGE IN CONSUMER CONTRACTS			
SB0069	1/07	1/14 & 2/13	1/16 2/23	TABLED		2/18
GALT, JACK E.			EXTENDING RESERVED WATER RIGHTS COMPACT COMM'N AND REQUIRING STATUS REPORTS			
SB0085	1/10	1/16		PASS AS AMENDED		1/22
BROWN, BOB			CRIMINAL INTELLIGENCE INFORMATION UNIT			
SB0087	1/10	1/23		DO PASS		1/23
MAZUREK, JOSEPH P.			LIABILITY OF PARTNERS AND OTHERS UNDER UNIFORM LIMITED PARTNERSHIP ACT			
SB0089	1/11	1/23	1/23	PASS AS AMENDED		1/28
MAZUREK, JOSEPH P.			REVISING LAWS RELATING TO GARNISHMENT OF PERSONAL SERVICES EARNINGS			
SB0090	1/11	1/18	XXXXX	PASS AS AMENDED		1/22
MAZUREK, JOSEPH P.			EXPANSION OF DISCOVERY IN CRIMINAL CASES			
SB0091	1/11	1/22	1/22	DO PASS		1/22
MAZUREK, JOSEPH P.			GENERAL REVISION AND CLARIFICATION OF VENUE STATUTES			
SB0097	1/11	1/15	1/15 XXX 2/23	TABLED		1/17
CRIPPEN, BRUCE D.			AMEND CONSTITUTION TO RAISE DRINKING AGE TO 21 -- HIGHWAYS BILL			
SB0098	1/11	1/15	1/17 XXX 1/15, 2/23	TABLED		1/18
CRIPPEN, BRUCE D.			IMPLEMENT PROPOSED CONST. AMEND. RAISING DRINKING AGE TO 21-HIGHWAYS BILL			

MONTANA STATE SENATE
JUDICIARY COMMITTEE
MINUTES OF THE MEETING

January 16, 1985

The seventh meeting of the Senate Judiciary Committee was called to order at 10:08 a.m. on January 16, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present, with the exception of Senator Daniels, who was excused.

CONSIDERATION OF SB 85: Senator Bob Brown, sponsor of SB 85, stated although criminal justice information is shared informally now, there is no centralized information bank on criminal activity and records, and consequently there is no record of somone's criminal activity in several cities around the state. Nationwide, there are several regional networks like Rocky Mountain Information Network. There is also the National Criminal Information Center which is headquartered in Washington, D.C., which is a repository for criminal information on stolen property and the like. This bill establishes an information section similar to Rocky Mountain Information Network and meets an important law enforcement need. In addition to creating this central location, Senator Brown stated the bill creates an information advisory council under the Attorney General's office. The information files compiled under the provisions of the bill will be reviewed once a year. No information gathered under the bill can be done illicitly. Senator Brown stated the fiscal impact of the bill depends on two additional FTEs the Attorney General has requested in his office. They have the equipment they would need now, but they would need the money to fund the two additional employees..

PROPONENTS: Larry Peterson, of the Montana Board of Crime Control, appeared in support of SB 85 (see written testimony attached as Exhibit 1). Dorothy McCarter, of the Attorney General's office, also appeared in support of the bill. She stated the Criminal Justice Information Act as it presently exists authorizes the Department of Justice to set up an intelligence information section. The purpose of this legislation is to ensure quality control in its collection, storage, and use. The creation of the intelligence information section would not jeopardize any individual's rights to privacy. The information in the intelligence information section is already in the hands of law enforcement agencies. Because the intelligence information section would be providing periodic reviews and audits, the information would be reliable. The Attorney General's office is suggesting the bill be amended (see Exhibit 2).

Chuck O'Reilly, President of the Sheriffs' and Peace Officers' Association and Sheriff of Lewis and Clark County, appeared in support of the bill. He stated the bill is not creating the gathering of information, but creating a system of using that information.

OPPONENTS: Butch Turk, from the Peace Legislative Coalition, testified regarding SB 85 and suggested that it be amended (see written testimony and proposed amendment attached as Exhibit 3). They believe it should not necessarily be a function of the criminal information system to maintain and disseminate non-criminal information.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Mr. O'Reilly why two years ago a similar bill created a lot of adverse publicity. Mr. O'Reilly stated there were a lot of rumors that began with the introduction of that bill concerning Big Brother. He believes the reason the bill was killed was a failure to explain they were not changing the information gathering. He further stated this bill today is essentially the same bill as the one killed last legislative session. Senator Shaw stated an advisory committee was recommended in this bill, but no additional funds appeared to be contemplated if the Attorney General got the other FTEs. He wondered if the advisory committee would need funding. Mr. Peterson stated he had no figure at this point, although without SB 85, the intelligence unit can be established. He believed a fiscal note would be required with SB 85 if the budget modification is approved. They have recommended the council consist of four individuals traveling to Helena one and a half days quarterly. Senator Mazurek asked if this bill were approved, was the Attorney General willing to absorb the cost of the advisory council out of existing funds if the budget amendment is not approved. Mr. Peterson stated he would be required by the bill to have an advisory council. Gary Carrell, Chief of the Criminal Investigation Bureau of the Attorney General's office, stated he forgot to include moneys for the advisory council if it were approved. Senator Shaw as if they were prepared if this bill passes to be able to absorb this bill plus a cut. Mr. Carroll responded that he doubted it. Senator Towe stated to Senator Brown he was concerned about privacy and had difficulty with the language. He feels the phrases are hard to pin down and questioned what we were trying to do here. Senator Brown responded the Montana constitution applies to privacy considerations. Senator Towe stated this is a sticky issue--criminal intelligence information is right at the heart of privacy. Mr. Peterson stated the Criminal Justice Information Act defines criminal intelligence information and stated it must be labeled as confidential; if it is disseminated, it must be stamped confidential. Mr. Peterson believes one problem with law enforcement is information may or may not have been valid and has been hung on to and has not been verified. He wants a council to develop some safeguards. Senator Towe stated he doesn't understand what is really meant by subparagraph 2 on page 6, lines 4-7,

and 19-22. Mr. Peterson stated we are referring to the Criminal Justice Information Act of 1979. Senator Towe questioned whether they were proposing to add to or change the Criminal Justice Information Act. Fritz Behr, Administrator of the Law Enforcement Division of the Attorney General's office, stated as he understands this bill, there is no intention to change the Criminal Justice Information Act of 1979; the bill would only tighten up the standards of the former exchange of this information. Mr. O'Reilly suggested sections 10 and 11 be struck and proposed the following amendment:

1. Page 5, line 9.
Following: "rights"
Insert: "as provided in the Montana Criminal Justice Act of 1979, Title 44, chapter 5"

CLOSING STATEMENT: Senator Brown stated he believes Mr. Turk's problem is a valid one that has been addressed in the existing law. He does not believe criminal activity includes political activity.

Hearing on SB 85 was closed.

ACTION ON SB 56: Senator Towe moved SB 56 be recommended DO NOT PASS. Senator Shaw stated at the present time he will support this bill and requested action not be taken on it at the present time. Senator Crippen stated the committee needs to act to keep things moving, and if you are gone, you are gone. Senator Towe asked Senator Shaw if in fact he were the only one supporting the bill, and, if so, the committee need not defer action any longer. Senator Shaw stated this bill sets guidelines for assumption of risk and shoots down the chance for lawyers to run around and get big settlements on accident cases that are not warranted. He stated the committee heard more for this bill than against it. Senator Towe explained the reason he opposes the bill is whether there were negligence should be a jury question, and this bill says you cannot even take the case to the jury. He stated Mr. Emmons may be incorrect in the court's applying comparative negligence to assumption of risk. Senator Crippen agreed with Senator Towe. He stated, years ago, we had contributory negligence. If a plaintiff filed a lawsuit and the plaintiff were 5% negligent and the defendant 95% negligent, the plaintiff could not recover. The law provides comparative negligence to provide a means of weighing the wrong. Comparative negligence brings more equity in these lawsuits. Senator Pinsoneault spoke in support of the bill stating there is an element of fairness that comes into it. Senator Mazurek stated the law is working. The motion to recommend SB 56 DO NOT PASS carried unanimously.

FURTHER CONSIDERATION OF SB 27: Senator Crippen moved that SB 27 DO NOT PASS. Senator Yellowtail has talked with two clerks in his district and indirectly through them has received a report from the Yellowstone

BOARD OF CRIME CONTROL

303 NORTH ROBERTS
SCOTT HART BUILDING
HELENA, MONTANA 59620
TELEPHONE NO. 444-3604

IN REPLY REFER TO:
SB 85

During the "1981 Criminal Justice Conference" a major law enforcement issue was identified:

> *No means exist for the collection, analysis, and exchange of criminal intelligence information between law enforcement agencies.*

In 1982, the Board of Crime Control charged a task force to examine the criminal intelligence information issue. The task force found that most law enforcement agencies do maintain some sort of intelligence information, but the exchange of this information is an ad hoc, informal process. A need was identified for a formal structure to exchange intelligence information; which would also provide for the protection of the rights of citizens, ensure the validity of information collected, and provide safeguards for its dissemination.

The proposed legislation is permissive in nature. It would allow the Department of Justice to establish a formal intelligence information exchange section, even though at present it does not appear to be prohibited from doing so.

Under the proposal, if the Department of Justice were to establish the intelligence information section, they would be required to have an "advisory council." The information would only be available to law enforcement agencies demonstrating a need for such information and meeting certain criteria to safeguard the information. Any agency violating the safeguards for the protection of this information could be removed from participating in the exchange process.

If an intelligence information section is established, the Board of Crime Control recommends a Legislative performance audit be conducted after two years of operation.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 2/16/85
BILL NO. SB 85

AMENDMENT TO
SENATE BILL 85

1. Page 1, line 16.
   Strike: "directly responsible to the attorney general"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 01/16/85
BILL NO. SB 85

Peace Legislative Coalition

P.O. Box 5419 • Helena, Montana 59604

TESTIMONY ON SB 35

Senate Judiciary Committee--January 16, 1985

Butch Turk 443-5122

The coordination and dissemination of criminal intelligence information can serve a useful and necessary purpose in our society. However, such activities have frequently been abused. Groups such as ours and other political groups have been subject to intelligence gathering and harrassment solely because of their political activity and not because of any alleged criminal behavior. Criminal law should not only protect individual privacy, but should also protect groups and individuals rights to free expression and dissent.

For these reasons the Peace Legislative Coalition suggests the following amendment to Senate Bill 35:

"The section shall not collect, maintain or disseminate information on the political activity of groups or individuals unless such information is clearly related to criminal actions."

GF Thu 1/14/85

ABA panel asks guard on FBI law

WASHINGTON (AP) — Reagan administration rules for FBI investigations of domestic terrorism need "additional safeguards" to protect lawful dissent, an American Bar Association committee said Sunday.

Although the panel commended the guidelines as reflecting "a healthy degree of balance" between First Amendment rights and public security, it said "additional safeguards are necessary" because the rules expand investigative techniques available to FBI agents.

"For instance, the FBI may now recruit new informants in circumstances where it could not do so under the old policy," said Eric Richard, chairman of the ABA's individual rights panel, which issued the report.

"That is why close monitoring of whether informants limit themselves to reporting evidence of crimes, rather than on the political beliefs or opinions of suspects, is so important," said Richard.

Among its recommendations, the ABA committee urged that FBI field offices be required to inform superiors at the Washington headquarters before opening preliminary investigations involving domestic security.

"The guidelines require no such reporting, which will make it difficult to ascertain whether field agents are observing the guidelines' requirements correctly," Richard said.

The report also suggested that procedures be established at the FBI to describe the scope of a domestic security investigation in writing at an early point so agents can decide what records or information are pertinent.

"This will permit the FBI to avoid developing retrievable information about persons who are not implicated in any unlawful activity," Richard said.

SENATE JUDICIARY COMMIT
EXHIBIT NO. 3
DATE 01/16/85
BILL NO. SB 35

drafting it, they tried to work carefully within the guidelines that were provided two years ago to simply put into the statutes what had been supplemented by the supreme court over the years and where the statutes were implemented to clarify it. The new sections at the beginning of the bill are basically things that the supreme court has held over the years but do not appear in the statutes themselves. Patrick E. Melby, representing the State Bar of Montana, stated he was there to lend the Bar's whole-hearted support of the bill, as they feel it is excellently drafted. They think the summary (Exhibit 1) explains the proposed changes very well. (See witness sheet attached as Exhibit 2.)

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked if we were talking about civil matters--we do not address criminal matters in this bill. Mr. Haddon stated that was correct. Senator Towe asked Professor Crowley if the purpose of the bill was not to make any substantive changes in the venue laws but to codify the existing situation. Senator Towe expressed a concern with page 3, lines 12-18 of the bill, where the language "or where the plaintiff resides and the defendants or any of them may be found" has been deleted. Professor Crowley stated the provision that is stricken that is one of the changes which was discussed at some length at their meetings. That provision was only before the Supreme Court once in all of the years it was there, and it resulted in a 3 to 2 decision because the dissenting judges said this is a provision that could be extremely conducive to fraud. There was an enormous dissent written on the case. The only cases they could find where lawyers are currently using it are in domestic relations cases.

CLOSING STATEMENT: Senator Mazurek stated Exhibit 1 is a very detailed explanation of the case law behind the bill.

Hearing on SB 91 was closed.

ACTION ON SB 85: Senator Towe moved the committee adopt the amendments proposed by the Attorney General (Exhibit 3). The motion carried unanimously. Mr. Petesch indicated the bill needed a statement of intent. Senator Shaw moved the committee recommend the bill DO PASS AS AMENDED. The motion carried unanimously. Senator Towe moved the statement of intent (Exhibit 4) be added to the bill. The motion carried unanimously.

ACTION ON SB 91: Senator Crippen moved the committee recommend SB 91 DO PASS. Karl Englund, on behalf of the Montana Trial Lawyers Association, stated he had reviewed the bill and stated they had no objection to it. The motion carried unanimously.

SB 85

1. Title, line 8.
Following: line 7
Strike: "SECTIONS"
Insert: "SECTION"
Following: "44-5-102,"
Strike: "44-5-303, AND 44-5-402,"

2. Page 1, line 16.
Following: "section"
Strike: "directly responsible to the attorney general"

3. Page 5, line 9.
Following: "rights"
Insert: "as provided in the Montana Criminal Justice Act of 1979, Title 44, chapter 5"

4. Page 5, line 19 through line 22, page 6.
Strike: Sections 10 and 11 in their entirety
Renumber: subsequent sections

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. _____
DATE 2-12-85
BILL NO. SB 85

STATEMENT OF INTENT

SENATE BILL NO. 85

A statement of intent is needed for this bill because section 8 requires the attorney general to adopt standards and procedures for operation of the criminal intelligence information section.

The standards and procedures should particularly address relations and the exchange of information between the section and participating agencies, information processing and distribution systems, the security of such systems and the information collected, and the safeguarding of individual privacy.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 4
DATE 01288
BILL NO. SB 85

Le Tech. Off. from
① Rebecca - 12/21 → thought deadline.

BILL NO. _____

INTRODUCED BY _____

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY A DEPENDENT CHILD FROM ONE BEING SIXTEEN TO EIGHTEEN YEAR OF AGE; AMENDING SECTION 45-5-622."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-5-622, MCA, is amended to read:

45-5-622. Endangering the welfare of children. (1) A parent, guardian, or other person supervising the welfare of a child less than ~~16~~ 18 years old commits the offense of endangering the welfare of children if he knowingly endangers the child's welfare by violating a duty of care, protection, or support."

(2) A parent or guardian or any person who is 18 years of age or older, whether or not he is supervising the welfare of the child, commits the offense of endangering the welfare of children if he knowingly contributes to the delinquency of a child less than ~~16~~ 18 year old by:

(a) supplying or encouraging the use of intoxicating substances by the child; or

(b) assisting, promoting, or encouraging the child to:

(i) abandon his place of residence without the consent of his parents or guardian;

(ii) enter a place of prostitution; or

(iii) engage in sexual conduct.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 012285
BILL NO. committee bill

(3) A person convicted of endangering the welfare of children shall be fined not to exceed $500 or imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined not to exceed 6 months, or both.

(4) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

(5) The Court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered.

STANDING COMMITTEE REPORT

January 22 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration SENATE BILL No. 85

first reading copy (white color)

CRIMINAL INTELLIGENCE INFORMATION UNIT

Respectfully report as follows: That SENATE BILL No. 85

be amended as follows:

1. Title, line 8.
Strike: "SECTIONS"
Insert: "SECTION"
Following: "44-5-102,"
Strike: "44-5-303, AND 44-5-402,"

2. Page 1, line 16.
Following: "section"
Strike: "directly responsible to the attorney general"

3. Page 5, line 9.
Following: "rights"
Insert: "as provided in the Montana Criminal Justice Act of 1979, Title 44, chapter 5"

4. Page 5, line 19 through line 22, page 6.
Strike: Sections 10 and 11 in their entirety
Renumber: subsequent sections

AND AS AMENDED

DO PASS

~~DO NOT PASS~~

STATEMENT OF INTENT ATTACHED

Chairman.

January 22 19 85

MR. PRESIDENT:

WE, YOUR COMMITTEE ON JUDICIARY, HAVING HAD UNDER CONSIDERATION SENATE BILL NO. 85, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT

SENATE BILL NO. 85

A statement of intent is needed for this bill because section 8 requires the attorney general to adopt standards and procedures for operation of the criminal intelligence information section.

The standards and procedures should particularly address relations and the exchange of information between the section and participating agencies, information processing and distribution systems, the security of such systems and the information collected, and the safeguarding of individual privacy.

CLERICAL

Date: 1/22/85

Time: 5:20 PM

Senate Bill 85

In accordance with Joint Rule 3-7(b) the following clerical errors may be corrected:

Senate Judiciary Comm Report of 1/22

#3 insert: "as provided in the Montana Criminal Justice Information Act of 1979, Title 44, chapter 5" ^

1/23/85
14:00

Sponsor

Secretary of Senate
or
Chief Clerk

cq DS

Legislative Council